

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUSTIN ERIN CRITCHELL,

Defendant.

NO. CR20-0086-RAJ

ORDER CONTINUING  
TRIAL DATE

Trial in this matter is currently scheduled for April 5, 2021. Dkt. No. 106.

On December 30, 2020, Chief Judge Martinez issued General Order 18-20 in response to the continuing outbreak of Coronavirus Disease (COVID-19) in this District. The General Order noted that the significant increase in the daily number of positive cases, hospitalizations, and deaths “has foreclosed the possibility of further increasing the number and type of in-court proceedings” and explained further as follows:

A statewide vaccination effort has begun, with the first doses going to “Phase 1A” groups, which include frontline health workers and long-term care residents and staff. The distribution of the vaccine to other members of the general public is anticipated to proceed in phases through the coming months. At this time, it appears likely that the majority of individuals with business in the Courthouses, including potential jurors, will not be fully vaccinated before March 31, 2021. Limiting the size and frequency of gatherings remain critical to preventing serious injury and death from COVID-19.

1 Accordingly, General Order 18-20 continued all “criminal in-person hearings and  
2 trials...scheduled to occur before March 31, 2021...pending a future general order from this  
3 Court or the order of an individual judge consistent with the procedures set forth in General  
4 Order 15-20.”

5 On March 19, 2021, Chief Judge Martinez issued General Order 04-21 holding that  
6 with the exception of specific exceptions set forth in the Order, the procedures established by  
7 General Order 15-20 are continued until June 30, 2021. General Order 04-21 explained that  
8 over “the last two months, the daily number of positive cases, hospitalizations, and deaths  
9 have significantly decreased in the Western District of Washington. A significant percentage  
10 of the public in this district has been vaccinated against the novel coronavirus. The vaccine  
11 has been available to those most vulnerable to serious complications from the virus and is  
12 now available to the Court’s staff. The distribution of vaccines to other members of the  
13 general public is anticipated to proceed in phases through the next two months. At this time,  
14 it appears likely that the majority of individuals with business in the Courthouses will have  
15 access to the vaccine by June. Until the majority of the public has received the vaccine and  
16 been fully vaccinated, limiting the size and frequency of gatherings remain critical to  
17 preventing serious injury and death from COVID-19.”

18 General Order 04-21 further ordered as follows:

19 All District Court civil and criminal in-person hearings and trials in these  
20 Courthouses scheduled to occur before June 30, 2021, are continued pending a  
21 future general order from this Court, unless the individual judge in each case  
22 has issued or will issue an order consistent with the procedures set forth in  
23 General Order 15-20. Civil bench and jury trials conducted remotely over  
24 Zoom.gov are not continued and may proceed.

25 The number of criminal proceedings that can occur in the Courthouses will  
26 begin to increase starting May 3, 2021. The Court will be strictly limiting the  
27 number of people that can physically attend these proceedings.

28 In-person criminal trials will be scheduled starting May 17, 2021. These trials  
will proceed one-at-a-time in each Courthouse; there will not be simultaneous  
in-person trials.

1 On March 3, 2021, the Court granted the ex-parte motion to withdraw filed by  
2 Defendant's prior counsel. Dkt. 114. On March 4, 2021, the Court appointed Peter Camiel  
3 to represent Defendant. Dkt. 115. Mr. Camiel is currently in the process of reviewing  
4 discovery, conferring with Defendant, analyzing the case, and arranging for additional  
5 investigation. Under these circumstances, it would be unreasonable to expect adequate and  
6 effective preparation for trial within the limitations of the current trial date, which is only a  
7 few days away. Counsel for Defendant has indicated that he will be prepared to try the case  
8 on September 7, 2021.

9 The Court notes that Defendant has previously objected to continuances of the trial  
10 date and that Defendant has not waived his right to argue that his Speedy Trial rights were  
11 violated. However, failure to grant a continuance of the trial date in this case would likely  
12 result in a miscarriage of justice. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the ends of justice  
13 served by continuing the trial in this case outweigh the best interest of the public and the  
14 defendant to a speedy trial.

15 IT IS HEREBY ORDERED that the trial in this matter is continued to September 7,  
16 2021, with a status conference scheduled for 9:00 a.m. on June 10, 2021. The Government  
17 shall file all pre-trial pleadings, including its trial brief, proposed jury instructions, and  
18 proposed voir dire, by August 24, 2021. Defendant shall file all pre-trial pleadings,  
19 including a trial brief, proposed jury instructions, and proposed voir dire, by August 27,  
20 2021. The Court will not consider previous pre-trial filings and requests that the parties  
21 resubmit any prior filings, even if they are unchanged.

22 IT IS HEREBY FURTHER ORDERED that the time between the date of this Order  
23 and the new trial date of September 7, 2021, is excluded in computing the time within which  
24 trial must commence because the ends of justice served by granting this continuance  
25 outweigh the best interest of the public and Defendant in a speedy trial, 18 U.S.C. §  
26 3161(h)(7)(A). Failure to grant this continuance would likely make trial impossible and  
27 result in a miscarriage of justice, and would deny counsel for Defendant and government  
28 counsel the reasonable time necessary for effective preparation, taking into account the

1 exercise of due diligence. *Id.* at § 3161(h)(7)(B)(i), (iv).

2 Finally, the Court notes that the pretrial motions deadline in this matter has already  
3 passed and the parties have extensively litigated pretrial motions. Consequently, absent  
4 compelling or changed circumstances, the Court is not inclined to allow additional pretrial  
5 motions, and the Court reserves ruling on defense counsel's request that the Court set a new  
6 pretrial motions deadline. No later than July 7, 2021, defense counsel may submit a  
7 summary setting forth the justification for seeking leave to file additional pretrial motions  
8 based on new discovery and/or information gleaned upon additional investigation. Counsel  
9 must meet and confer with government counsel prior to filing the summary to determine if  
10 any issues may be resolved without Court intervention.

11 DATED this 2nd day of April, 2021.

12  
13 

14 The Honorable Richard A. Jones  
15 United States District Judge  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28